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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
EUREKA DIVISION

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KAM WONG,  
Plaintiff,  
v.  
ALAMEDA COUNTY, et al.,  
Defendants.

Case No. 18-cv-00353-JST (RMI)

**ORDER ON DISCOVERY MOTIONS**

Re: Dkt. Nos. 68, 80

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On March 11, 2019, Plaintiff's pending discovery motions, (dkts. 68 & 80), were referred to the undersigned for disposition. *See Order* (dkt. 83). Both motions are now fully briefed<sup>1</sup> and pursuant to Civil Local Rule 7-1(b), the court finds that the motions are due to be determined without oral argument.

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**A. Motion for Leave to Serve Additional Interrogatories (dkt. 68)**

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In this Motion, Plaintiff seeks permission to "propound [four] additional follow up interrogatories upon Defendant McBride." *Mot.* (dkt. 68) at 2. As the basis for this request, Plaintiff points the court to McBride's response to Plaintiff's Request for Admissions, wherein, McBride denied that he violated Plaintiff's constitutional rights. *Id.* at 5.

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McBride objects to the Motion on several grounds. First, McBride asserts that Plaintiff has violated Federal Rule of Civil Procedure 33(a) by failing to obtain leave prior to serving these additional interrogatories. *Defs. ' Resp.* (dkt. 73) at 2. Rule 33 allows for up to twenty-five (25) interrogatories to be served on any one party and requires leave of court prior to the service of

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<sup>1</sup> *See* (dkts. 68, 73, 77, 80, 81, & 86).

1 additional interrogatories. Second, McBride states that Plaintiff's Motion is disingenuous in that it  
2 fails to disclose that Plaintiff has already submitted a second set of interrogatories and that this  
3 request would amount to a third set. *Id.* Third, McBride argues that the requested additional  
4 interrogatories "seek to ask Deputy McBride to prove a negative," and that Plaintiff has neglected  
5 "to mention the plethora of discovery responses that have been provided by Deputy McBride (and  
6 the other defendants) to date." *Id.* at 3. McBride then provides examples of several previous  
7 responses to interrogatories. *Id.* at 3-4.

8 The requested additional interrogatories are as follows:

21 Mot. (dkt. 68) at 3-5. On review of the proposed third set of interrogatories, the court finds no  
22 basis to allow these to be served. Disagreement with previous responses to interrogatories, or  
23 requests for admissions, is not a basis for propounding additional interrogatories. McBride has  
24 already denied that he was aware of the poor conditions in which Plaintiff described his cell, and  
25 McBride has stated that Plaintiff's classification status and release was not his decision to make.<sup>2</sup>

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<sup>2</sup> See the previous responses to interrogatories and requests for admissions provided in *Defs.* ' Resp. (dkt. 73) at 3-4.

1 In order to respond to Plaintiff's proposed additional interrogatories, McBride would need to:  
2 admit to placing Plaintiff in a pod with mentally ill inmates and inhumane conditions of  
3 confinement; admit that it was his responsibility to provide Plaintiff with due process; admit that it  
4 was within his scope of duties to provide recommendations that Plaintiff be removed or released  
5 from Ad-Seg confinement; and, admit that it was okay for Plaintiff to be housed with mentally ill  
6 inmates, in inhumane conditions of confinement, and to be deprived of due process. These  
7 admissions and responses would run contrary to McBride's previous statements. The proposed  
8 interrogatories are argumentative, repetitive, and improper. Again, simply because Plaintiff is  
9 unhappy with McBride's responses, or Plaintiff has thought of other ways to ask the same or  
10 similar questions, does not mean that he can propound additional interrogatories. Otherwise, the  
11 interrogatory process would be endless.

12 Accordingly, the Motion for Leave to Serve Additional Interrogatories (dkt. 68) is  
13 DENIED.

14 ***B. Motion for Leave to File Motion to Propound Additional Interrogatories (dkt. 80)***

15 Plaintiff requests leave to file a motion to serve additional interrogatories on Defendants  
16 Almeria, Griffitts, Hattaway, & McBride. *Pl.'s Mot.* (dkt. 80). Defendants object to the motion on  
17 the basis that Plaintiff has failed to meet-and-confer prior to the filing of the Motion. *See Defs.'*  
18 *Resp.* (dkt. 81). In his Reply, Plaintiff argues that because the Motion seeks leave to file a motion  
19 and not a discovery "dispute," no meet-and-confer was required. *See Pl.'s Reply* (dkt. 86).

20 Regardless of whether Plaintiff was obligated to meet-and-confer prior to the filing of the  
21 instant Motion, the court will require it now. Accordingly, Plaintiff's Motion for Leave to File  
22 Motion to Propound Additional Interrogatories (dkt. 80) is DENIED. The parties are ordered to  
23 meet-and-confer in a good faith attempt to reach a resolution of the matter. The parties should  
24 keep in mind the principles of the ruling above in relation to the interrogatory procedure. Plaintiff  
25 may refile the motion if the parties are unable to reach a joint resolution. Further, Plaintiff is  
26 instructed to attempt to meet-and-confer with Defendants before filing any future motions that  
27 have any relation to a discovery matter.

1 **IT IS SO ORDERED.**

2 Dated: March 19, 2019

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4 ROBERT M. ILLMAN  
5 United States Magistrate Judge

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